

CHAPTER 264

TRANSPORTATION

HOUSE BILL 00-1437

BY REPRESENTATIVES George, Alexander, Bacon, Coleman, Gordon, Kaufman, Larson, Mace, Miller, Ragsdale, Scott, Swenson, Tapia, Taylor, and Webster;
also SENATORS Chlouber, Arnold, Hernandez, Matsunaka, Pascoe, Perlmutter, and Rupert.

AN ACT

CONCERNING RURAL TRANSPORTATION AUTHORITIES.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 43-4-603 (4), Colorado Revised Statutes, is amended to read:

43-4-603. Creation of authorities. (4) No contract establishing an authority pursuant to this section shall take effect unless first submitted to a vote of the registered electors residing within the boundaries of the proposed authority. **HOWEVER, A CONTRACT ESTABLISHING AN AUTHORITY MAY SUBSEQUENTLY BE AMENDED IN ACCORDANCE WITH ANY AMENDMENT PROCEDURES SPECIFIED IN THE CONTRACT PURSUANT TO PARAGRAPH (f) OF SUBSECTION (2) OF THIS SECTION.** The question of establishing the authority shall be submitted to such registered electors at a general election or a special election called for such purpose. Such question may also be proposed to such registered electors at the same time and in the same or a separate question as an election required under section 43-4-612. The authority shall not be established unless a majority of the registered electors voting thereon at the election vote in favor thereof. The election shall be conducted in substantially the same manner as county elections, and the county clerk and recorder of each county in which the election is conducted shall assist the members of the combination of the proposed authority in conducting the election.

SECTION 2. 43-4-604 (3), Colorado Revised Statutes, is amended **BY THE ADDITION OF A NEW PARAGRAPH** to read:

43-4-604. Board of directors. (3) The board, in addition to all other powers conferred by this part 6, has the following powers:

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(i) TO AMEND THE CONTRACT THAT CREATED THE AUTHORITY TO THE EXTENT THAT ANY AMENDMENT PROCEDURES SPECIFIED IN THE CONTRACT PURSUANT TO SECTION 43-4-603 (2) (f) AUTHORIZE THE BOARD, RATHER THAN THE MEMBERS OF THE COMBINATION THAT ARE PARTIES TO THE CONTRACT, TO AMEND THE CONTRACT.

SECTION 3. 43-4-605 (1) (j) and (2) (a), Colorado Revised Statutes, are amended, and the said 43-4-605 (1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

43-4-605. Powers of the authority - inclusion or exclusion of property - determination of rural transportation system alignment - fund created. (1) In addition to any other powers granted to the authority pursuant to this part 6, the authority has the following powers:

(i.5) (I) SUBJECT TO THE PROVISIONS OF SECTION 43-4-612, TO IMPOSE, IN ALL OR ANY DESIGNATED PORTION OF THE MEMBERS OF THE COMBINATION, A VISITOR BENEFIT TAX ON PERSONS WHO PURCHASE OVERNIGHT ROOMS OR ACCOMMODATIONS IN ANY AMOUNT THAT WOULD NOT CAUSE THE AGGREGATE AMOUNT OF THE VISITOR BENEFIT TAX AND ANY LODGING TAX IMPOSED ON SUCH OVERNIGHT ROOMS OR ACCOMMODATIONS TO EXCEED TWO PERCENT OF THE PRICE OF SUCH OVERNIGHT ROOMS OR ACCOMMODATIONS; EXCEPT THAT THE AUTHORITY SHALL NOT IMPOSE ANY SUCH VISITOR BENEFIT TAX ON OVERNIGHT ROOMS OR ACCOMMODATIONS THAT ARE IN ANY TERRITORY:

(A) OUTSIDE THE BOUNDARIES OF THE AUTHORITY AND WITHIN THE BOUNDARIES OF A MUNICIPALITY AS THE BOUNDARIES OF THE MUNICIPALITY EXIST ON THE DATE THE AUTHORITY IS CREATED WITHOUT THE CONSENT OF THE GOVERNING BODY OF SUCH MUNICIPALITY; OR

(B) OUTSIDE THE BOUNDARIES OF THE AUTHORITY AND WITHIN THE UNINCORPORATED BOUNDARIES OF A COUNTY AS THE UNINCORPORATED BOUNDARIES OF THE COUNTY EXIST ON THE DATE THE AUTHORITY IS CREATED WITHOUT THE CONSENT OF THE GOVERNING BODY OF SUCH COUNTY.

(II) THE VISITOR BENEFIT TAX IS IN ADDITION TO ANY FEE OR TAX IMPOSED BY THE STATE OR ANY OTHER GOVERNMENTAL UNIT AND A MINIMUM OF SEVENTY-FIVE PERCENT OF THE NET REVENUE DERIVED FROM THE TAX SHALL BE USED BY THE AUTHORITY SOLELY TO FINANCE, CONSTRUCT, OPERATE, AND MAINTAIN RURAL TRANSPORTATION SYSTEMS AND PROVIDE INCENTIVES TO OVERNIGHT VISITORS TO USE PUBLIC TRANSPORTATION.

(III) NOTWITHSTANDING THE PROVISIONS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (i.5), AN AUTHORITY MAY DERIVE NO MORE THAN ONE THIRD OF ITS TOTAL REVENUES FROM THE VISITOR BENEFIT TAX.

(IV) ANY AUTHORITY THAT IMPOSES A VISITOR BENEFIT TAX SHALL GIVE DUE CONSIDERATION TO THE TRANSPORTATION NEEDS OF PERSONS WHO PAY THE VISITOR BENEFIT TAX ON THE PURCHASE OF OVERNIGHT ROOMS OR ACCOMMODATIONS WHEN CONSTRUCTING, OPERATING, AND MAINTAINING RURAL TRANSPORTATION SYSTEMS AND SHALL ENSURE THAT SUCH VISITORS HAVE EASY ACCESS TO SUCH RURAL TRANSPORTATION SYSTEMS.

(V) UPON THE REQUEST OF THE AUTHORITY, THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE SHALL ADMINISTER AND COLLECT THE VISITOR BENEFIT TAX AUTHORIZED BY SUBPARAGRAPH (I) OF THIS PARAGRAPH (i.5). IF THE AUTHORITY REQUESTS THAT THE EXECUTIVE DIRECTOR ADMINISTER AND COLLECT THE TAX, THE EXECUTIVE DIRECTOR SHALL MAKE MONTHLY DISTRIBUTIONS OF THE TAX COLLECTIONS TO THE AUTHORITY. THE DEPARTMENT OF REVENUE SHALL RETAIN AN AMOUNT NOT TO EXCEED THE COST OF THE COLLECTION, ADMINISTRATION, AND ENFORCEMENT AND SHALL TRANSMIT THE AMOUNT TO THE STATE TREASURER WHO SHALL CREDIT THE SAME TO THE RURAL TRANSPORTATION AUTHORITY VISITOR BENEFIT TAX FUND, WHICH FUND IS HEREBY CREATED. THE AMOUNTS SO RETAINED ARE HEREBY APPROPRIATED ANNUALLY FROM THE FUND TO THE DEPARTMENT TO THE EXTENT NECESSARY FOR THE DEPARTMENT'S COLLECTION, ADMINISTRATION, AND ENFORCEMENT OF THE PROVISIONS OF THIS PART 6. ANY MONEYS REMAINING IN THE FUND ATTRIBUTABLE TO TAXES COLLECTED IN THE PRIOR FISCAL YEAR SHALL BE TRANSMITTED TO THE AUTHORITY; EXCEPT THAT, PRIOR TO THE TRANSMISSION TO THE AUTHORITY OF SUCH MONEYS, ANY MONEYS APPROPRIATED FROM THE GENERAL FUND TO THE DEPARTMENT FOR THE COLLECTION, ADMINISTRATION, AND ENFORCEMENT OF THE TAX FOR THE PRIOR FISCAL YEAR SHALL BE REPAYED.

(j) Subject to the provisions of section 43-4-612, to levy, in all or any designated portion of the members of the combination, a sales or use tax, or both, at a rate not to exceed ~~four-tenths of~~ one percent upon every transaction or other incident with respect to which a sales or use tax is levied by the state; except that the authority shall not levy any such sales or use tax on any transaction or other incident occurring in any territory located outside the boundaries of the authority and within the boundaries of a municipality as the boundaries of the municipality exist on the date the authority is created without the consent of the governing body of such municipality or outside the boundaries of the authority and within the unincorporated boundaries of a county as the unincorporated boundaries exist on the date the authority is created without the consent of the governing body of such county. SUBJECT TO THE PROVISIONS OF SECTION 43-4-612, THE AUTHORITY MAY ELECT TO LEVY ANY SUCH SALES OR USE TAX AT DIFFERENT RATES IN DIFFERENT DESIGNATED PORTIONS OF THE MEMBERS OF THE COMBINATION. IF THE AUTHORITY SO ELECTS, IT SHALL SUBMIT A SINGLE BALLOT QUESTION THAT LISTS ALL OF THE DIFFERENT RATES TO THE REGISTERED ELECTORS OF ALL DESIGNATED PORTIONS OF THE MEMBERS OF THE COMBINATION IN WHICH THE PROPOSED SALES OR USE TAX IS TO BE LEVIED. The tax imposed pursuant to this paragraph (j) is in addition to any other sales or use tax imposed pursuant to law and is exempt from the limitation imposed by section 29-2-108, C.R.S. If a member of the combination is located within more than one authority, the sales or use tax, or both, authorized by this paragraph (j) shall not exceed ~~four-tenths of~~ one percent upon every transaction or other incident with respect to which a sales or use tax is levied by the state. The executive director of the department of revenue shall collect, administer, and enforce the sales or use tax, to the extent feasible, in the manner provided in section 29-2-106, C.R.S. The director shall make monthly distributions of the tax collections to the authority, which shall apply the proceeds solely to the financing, construction, operation, or maintenance of rural transportation systems. The department of revenue shall retain an amount not to exceed the cost of the collection, administration, and enforcement and shall transmit the amount to the state treasurer, who shall credit the same to the rural transportation authority sales tax fund, which fund is hereby created. The amounts so retained are hereby appropriated annually from the fund to the department of

~~revenue~~ to the extent necessary for the department's collection, administration, and enforcement of the provisions of this part 6. Any moneys remaining in the fund attributable to taxes collected in the prior fiscal year shall be transmitted to the authority; except that, prior to the transmission to the authority of such moneys, any moneys appropriated from the general fund to the department ~~of revenue~~ for the collection, administration, and enforcement of the tax for the prior fiscal year shall be repaid.

(2) (a) The board may include property within or exclude property from the boundaries of the authority in the manner provided in this subsection (2). Property may not be included within the boundaries of the authority unless it is within the boundaries of the members of the combination ~~and is contiguous to property within the boundaries of the authority~~ at the time of the inclusion. Property located within the boundaries of a municipality that is not a member of the combination as the boundaries of the municipality exist on the date the property is included may not be included without the consent of the governing body of such municipality, and property within the unincorporated boundaries of a county that is not a member of the combination as the unincorporated boundaries of the county exist on the date the property is included may not be included without the consent of the governing body of such county.

SECTION 4. Part 6 of article 4 of title 43, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

43-4-621. Calculation of fiscal year spending limit - first full fiscal year's spending as base. (1) FOR THE PURPOSE OF DETERMINING ANY AUTHORITY'S FISCAL YEAR SPENDING LIMIT UNDER SECTION 20 (7) (b) OF ARTICLE X OF THE STATE CONSTITUTION, THE INITIAL SPENDING BASE OF THE AUTHORITY SHALL BE THE AMOUNT OF REVENUES COLLECTED BY THE AUTHORITY FROM SOURCES NOT EXCLUDED FROM FISCAL YEAR SPENDING PURSUANT TO SECTION 20 (2) (e) OF ARTICLE X OF THE STATE CONSTITUTION DURING THE FIRST FULL FISCAL YEAR FOR WHICH THE AUTHORITY COLLECTED REVENUES.

(2) FOR PURPOSES OF THIS SECTION, "FISCAL YEAR" MEANS ANY YEAR-LONG PERIOD USED BY AN AUTHORITY FOR FISCAL ACCOUNTING PURPOSES.

SECTION 5. Effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Approved: May 26, 2000